

International Public Policy

SYLLABUS

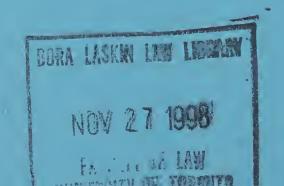
University of Toronto

January 1999

David Kennedy

Harvard Law School

VOLUME 1



UNIVERSITY OF TORONTO

International Public Policy

SYLLABUS

University of Toronto

January 1999

David Kennedy

Harvard Law School



International Public Policy

SYLLABUS

University of Toronto January 1999

David Kennedy Harvard Law School

TABLE OF CONTENTS

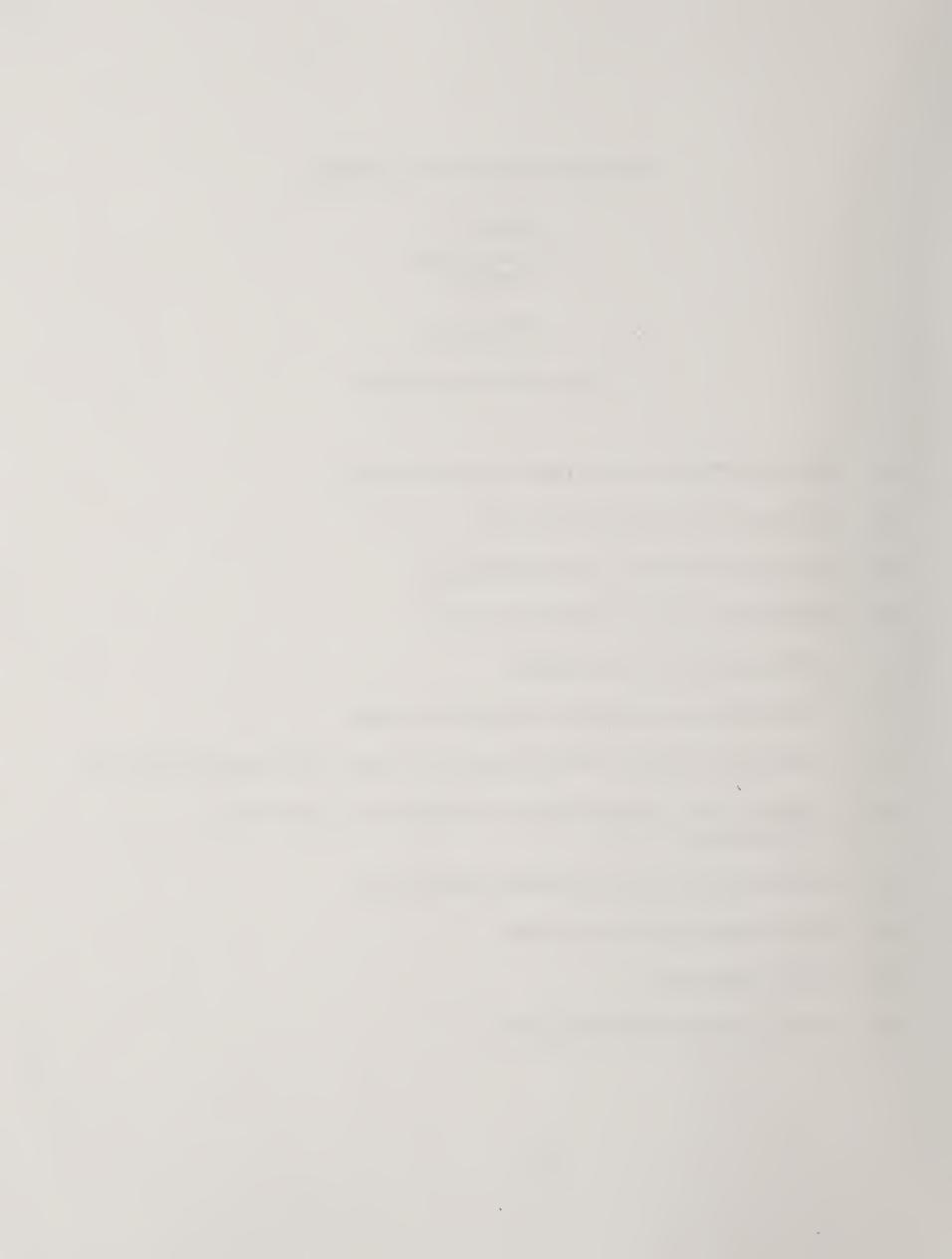
I.	PUBLIC INTERNATIONAL LAW AS SITE FOR POLICY
П.	HISTORY OF INTERNATIONAL LAW
III.	A REGIME OF NORMS AND PROCEDURES
IV.	TERRITORY AND THE RETURN TO FORM
V.	INTERNATIONAL INSTITUTIONS
VI.	SUBSTANCE: PRAGMATISM - THE ENVIRONMENT
VII.	SUBSTANCE NORMS - HUMAN RIGHTS, CULTURE, AND COMPARATIVE LAW
VIII.	TWO REGIMES: INTERNATIONAL ECONOMIC LAW AND PUBLIC INTERNATIONAL LAW
IX.	GLOBALIZATION AND NATIONAL REGULATION
X.	THE PROBLEM OF DEVELOPMENT

COLLECTIVE WAR

GLOBALIZATION: BOON OR BANE

XI.

XII.



ASSIGNMENTS

I. PUBLIC INTERNATIONAL LAW AS SITE FOR POLICY

- HENKIN, PUGH, SCHACHTER, SMIT xvii xix (1993).
- DAVID KENNEDY "The Disciplines of International Law and Policy," Lectures 1 & 4 delivered at The University of Paris, February (1998), forthcoming in French by Pedone (1998) and in English in the Leiden Journal of International Law (1999).

II. HISTORY OF INTERNATIONAL LAW

A. <u>Disciplinary History: Into Modernism</u>

- HENKIN, PUGH, SCHACHTER & SMIT, International Law (3d. Ed. 1993).
 - i. Historical Introduction (xxi xxxi).
- NATHANIEL BERMAN, "Modernism, Nationalism, and the Rhetoric of Reconstruction," 4 Yale J.L. & Humanities 351 (1992) (excerpts).
- ALEJANDRO ALVAREZ, "The New International Law," Proceedings of the Grotius Society, 35-51 (1929).

B. Something Called Sovereignty

- The Antelope, 23 U.S. (10 Wheaton) 66 (1825).
- H. WHEATON, Elements of International Law (1866) Chapter II, "Nations and Sovereign States," (excerpts).
- G. BUTLER, "Sovereignty and the League of Nations," B.Y.I.L (1920-21).
- H. KELSEN, "Law and Peace in International Relations: The Oliver Wendell Holmes Lectures 1940 -1941" (1942) (excerpts).
- R. ASHLEY AND R.B.J. WALKER, "Reading Dissidence/Writing the Discipline: Crisis and the Question of Sovereignty in International Studies," 34 Int. Studies Q. 367-416 (1990) (excerpts).
- KAREN KNOP, "RE/Statements: Feminism and State Sovereignty in International Law" 3 Transnational L. & Contempory Prob. 293 (1993).

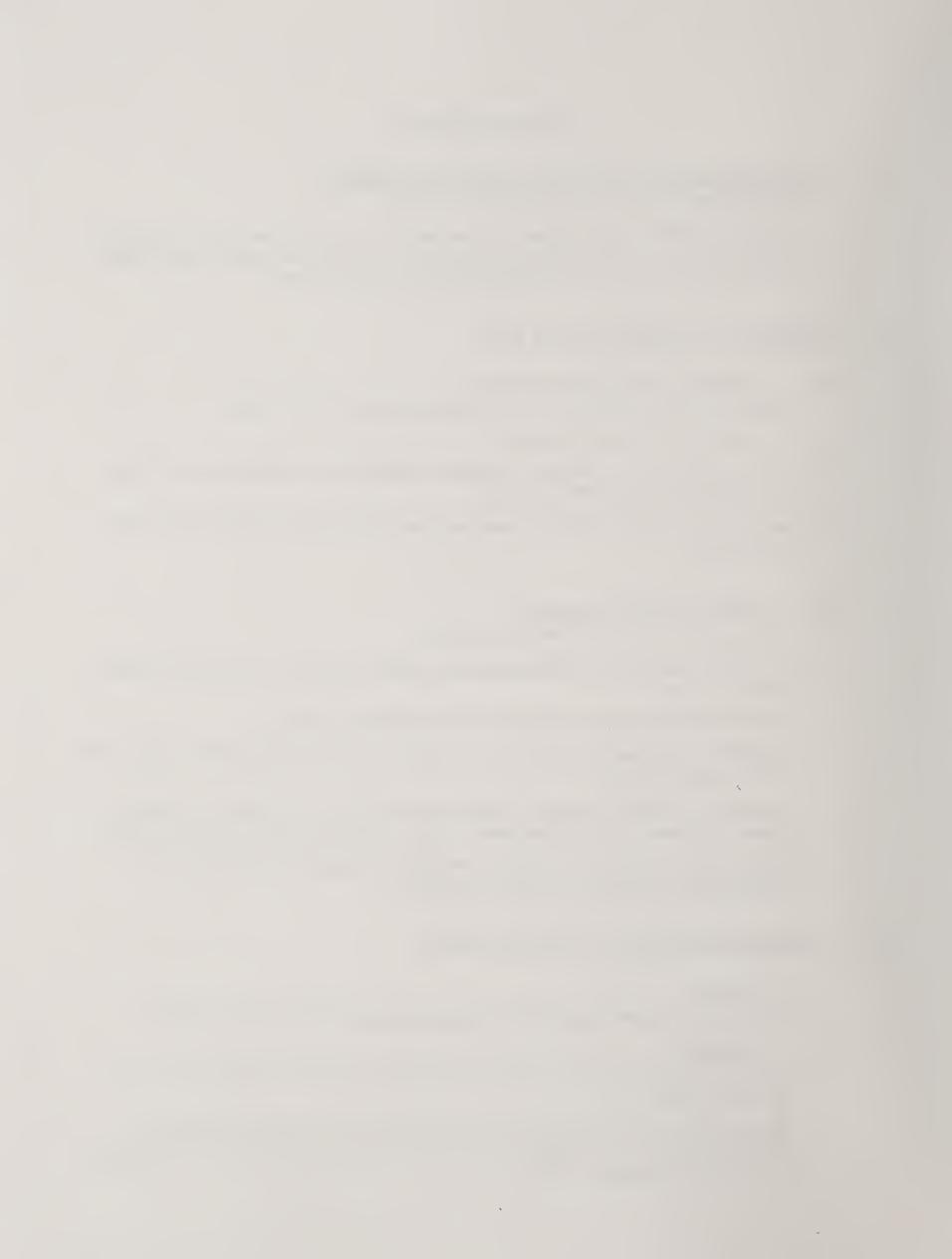
III. A REGIME OF NORMS AND PROCEDURES

A. Sources

• HENKIN, PUGH, SCHACHTER & SMIT, International Law (3d ed. 1993), 51-72,91.

B. Jurisdiction

- HENKIN, PUGH, SCHACHTER & SMIT, <u>International Law</u> (3d ed. 1993), {Restatements 402 & 403} 1046 1051.
- ROBERT MALLEY, JEAN MANAS, CRYSTAL NIX, Note, "Constructing the State Extraterritorially: Jurisdictional Discourse the National Interest, and Transnational Norms" 103 Harv. L. R. 1273 (1990) (excerpts).



- C. <u>State Responsibility and Countermeasures</u>
- HENKIN, PUGH, SCHACHTER & SMIT, International Law (3d. Ed. 1993), 544-586.
- Chart of State Responsibility Doctrines.
- ANNELISE RILES, "The View From the International Plane: Perspective and Scale in the Architecture of Colonial International Law," 6 L. & Critique (1995).

IV. TERRITORY AND THE RETURN TO FORM

HENKIN, PUGH, SCHACHTER & SMIT, <u>International Law</u> (3d. Ed. 1993), 308-320 (acquisition, <u>Palmas</u> 1928, <u>Eastern Greenland</u> 1933); 324-327 (<u>uti possidetis</u> & <u>Burkina</u> Faso v Mali 1986); 330-340 (<u>El Salvador v. Honduras</u> 1992).

V. <u>INTERNATIONAL INSTITUTIONS</u>

- F. KIRGIS, <u>International Organizations In Their Legal Setting</u> (2d. Ed. 1993) (Preface and Table of Contents.
- HENRY SCHERMERS, <u>International Institutional Law</u> (1980) pages 1-33 (introduction and classification scheme).
- DAVID KENNEDY, "A New World Order; Yesterday, Today and Tomorrow," 4:2 Journal of Trans. Law & Contemporary Problems 329 (1994).
- FRANK GARCIA, "Mesoinstitutions and Trade Governance," Decision making and Dispute Resolution in the Free Trade Area of the Americas: An Essay in Trade Governance, 369 -381 (1997).
- JUDITH H. BELLO, "The WTO Dispute Settlement Understanding: Less is More," 90 A.J.I.L. 416 (1996).

VI. <u>SUBSTANCE: PRAGMATISM - THE ENVIRONMENT</u>

- PHILIP SANDS, "Introduction," Greening International Law (xv-xlvii) (1994).
- ILEANA PORRAS, "The Rio Declaration: A New Basis for International Cooperation," Greening International Law 20 (Philippe Sands ed., 1994).
- RICHARD FALK, "Environmental Protection in an Era of Globalization," 6 Y.B. INT'L ENVTL. L. 3, 3-7, 24-25 (1995).
- HENKIN, PUGH, SCHACHTER & SMIT, International Law (3d. Ed. 1993), 1375-1382.

VII. <u>SUBSTANCE NORMS - HUMAN RIGHTS, CULTURE, AND COMPARATIVE LAW</u>

A. Human Rights

- American Anthropologist, "Statement on Human Rights," Vol. 49, #4, Oct-Dec 1947.
- DAVID KENNEDY, "Spring Break," 63 <u>Tex. L. Rev</u>. (1985) 1377.

Digitized by the Internet Archive in 2018 with funding from University of Toronto

https://archive.org/details/internationalpub01kenn

• BOAVENTURA DE SOUSA SANTOS, "Toward a Multicultural Conception of Human Rights," 18 Zeitschrift für Rechtssoziologie 1 (1977).

B. <u>Postcolonialism</u>

- LAMA ABU-ODEH, "Post-Colonial Feminism and the Veil: Considering the Differences," 26 New Eng. L. Rev. 1527 (1992).
- ROSEMARY COOMBE, "The Properties of Cultural and the Politics of Possessing Identity: Native Claims in the Cultural Appropriation Controversy," in Danielsen and Engle eds. After Identity: A Reader in Law and Culture (1994) 251-267.

C. <u>Culture and Global Governance:</u> International and Comparative Law

• DAVID KENNEDY, "The Disciplines of International Law and Policy," Lecture 3 delivered at The University of Paris, February (1998), forthcoming in French by Pedone (1998) and in English in the Leiden Journal of International Law, (1998).

VIII. TWO REGIMES: INTERNATIONAL ECONOMIC LAW AND PUBLIC INTERNATIONAL LAW

- J. JACKSON & W. DAVEY, "Legal Problems of International Relations," (1995) 1-4, 44-55.
- DAVID KENNEDY, "The Disciplines of International Law and Policy," Lecture 2 delivered at The University of Paris, February (1998), forthcoming in French by Pedone (1998) and in English in the Leiden Journal of International Law, (1998).
- WILHELM ROEPKE, "Economic Order and International Law," 86 Recueil des Cours 203 71 (1954) (excerpts).

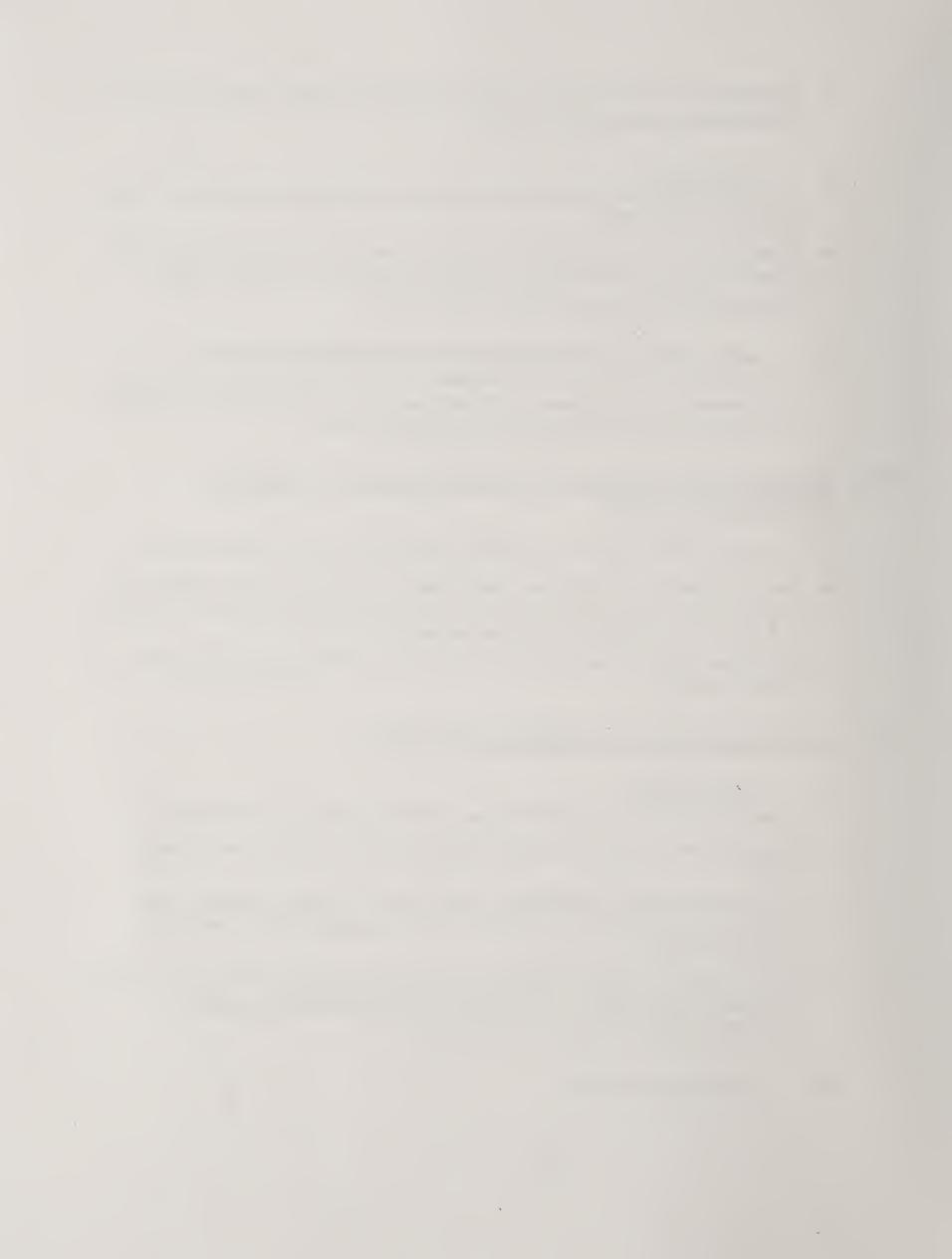
IX. GLOBALIZATION AND NATIONAL REGULATION

A. Labor Standards

- Financial Times 12/13/96, "WTO Refuses to Link Trade Measures to Labor Rights".
- Financial Times 6/12/97, "Developing Countries Attack Move to Link Labor Standards to Trade".
- "International Trade and Social Welfare: The New Agenda," Transcript of January 7 1995 meeting of the Section on International Law of the American Association of Law Schools (excerpts).
- BRIAN LANGILLE, "General Reflections on the Relationship of Trade and Labor (Or. Fair Trade is Free Trades Destiny)," Bhagwati and Hudec eds. Fair Trade and Harmonization,

 Prerequisites for Free Trade? (1996) at 231-266.

B. Sex Trade and Adoption



- K. HERRMANN AND M. JUPP, "International Sex Trade," Sexual Trafficking in Children: An Investigation of the Child Sex Trade140-157.
- E. BARTHOLET, "International Adoption: Overview" (1988) (excerpts).

X. THE PROBLEM OF DEVELOPMENT

• H.W. ARNDT, "Economic Development: The History of an Idea," (1987) 9-114.

XI. <u>COLLECTIVE WAR</u>

- DAVID KENNEDY, "The Move to Institutions," 8 Cardozo Law Review, 841 (1987).
- NATHANIEL BERMAN, "Between 'Alliance' and Localization': Nationalism and the New Oscillationism," NY University J.L. of Int'l Law and Politics V. 26, 449-491 (1994).
- MARTTI KOSKENNIEMI, "The Police in the Temple: Order Justice and the UN A Dialectical View," 5 Eur. J. Of Int. L. 325-348 (1995).
- CLAUSEWITZ, On War (1832) 101-122;399-410.

XII. GLOBALIZATION: BOON OR BANE

- DAVID TRUBEK, YVES DEZALAY, RUTH BUCHANEN & JOHN DAVIS, "Global Restructuring and the Law: Studies of the Internationalization of Legal Fields and the Creation of Transnational Arenas" 44 Case Western Reserve Law Review 407-98 (1994).
- ARTURO ESCOBAR, Encountering Development: The Making and Unmaking of the Third World, Chapter 1.
- DAVID KENNEDY, "The Disciplines of International Law and Policy," Lecture 5 delivered at The University of Paris, February (1998), forthcoming in French by Pedone (1998) and in English in the Leiden Journal of International Law, (1999).

